



UNITED STATES PATENT AND TRADEMARK OFFICE

01 AUG 2003

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of :
Zimmermann et al. :
US Application No.: 09/937,006 :
PCT Application No.: PCT/DE01/00199 :
International Filing Date: 18 January 2001 :
Priority Date: 21 January 2000 :
Attorney's Docket No.: 10191/1957 :
For: METHOD FOR PERFORMING A TRACK :
SLIP AND A PLAYBACK REVICE :
DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to the "Petition to Withdraw Holding of Abandonment" filed on 19 July 2002, which is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this international application as to the United States.

BACKGROUND

On 18 January 2001, Applicants filed international application PCT/DE01/00199, which claimed priority of an earlier application filed on 21 January 2000. Given that there is no evidence of the filing of a Demand for International Preliminary Examination on or before 21 August 2001, when the 19th month from the 21 January 2000 priority date would expire, the period for entering the national stage is thus 20 months and ended on 21 September 2001.

On 19 September 2001, Applicants filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by, *inter alia*, the \$860 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(4), and an unexecuted declaration.

On 30 October 2001, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, stating that an oath or declaration as required by 35 U.S.C. 371(c)(4) was missing, and setting forth an extendable 2-month period for submitting an oath or declaration. The required oath or declaration was not filed on or before 30 December 2001, and no extension of time in accordance with 37 CFR 1.136(a) was obtained. The international application was held abandoned as to the United States on 31 December 2001. A Notification of Abandonment (Form PCT/DO/EO/909) was mailed on 8 July 2002.

The instant petition asserts that an executed declaration was filed on 29 May 2002 along with a request for a 5-month extension of time and the requisite extension-of-time fee.

ANALYSIS

Upon review of the application file, the Office located a "Response to Missing Requirements under 35 U.S.C. 371" filed on 29 May 2002, accompanied by an executed "Declaration and Power of Attorney" and an authorization to charge the \$1,960 for a 5-month extension of time to Deposit Account No. 11-0600. These papers apparently were not matched with the file until after the mailing of the Form PCT/DO/EO/909.

CONCLUSION

In view of the above, the declaration was timely filed. The petition is thus **GRANTED**. The holding of abandonment in the international application, as to the United States, is hereby withdrawn.

The Form PCT/DO/EO/909 mailed on 8 July 2002 is hereby **VACATED**.

Finally, a review of the declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 January 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **29 May 2002**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.


Boris Milef
PCT Legal Examiner
PCT Legal Office


RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459